



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,160	02/27/2004	Akira Fukushima	03774/LH	8989

1933 7590 04/22/2005

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC  
767 THIRD AVENUE  
25TH FLOOR  
NEW YORK, NY 10017-2023

EXAMINER
----------

BEACH, THOMAS A

ART UNIT	PAPER NUMBER
----------	--------------

3671

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/789,160	FUKUSHIMA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thomas A Beach	3671	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/27/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

*A*

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 2 is objected to because of the following informalities: on line 3, "its base section" lacks proper antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 9, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 09209402. JP '402 shows a crawler frame for a construction machine, the crawler frame including a center frame composed of a central frame section for supporting a swing bearing and legs located on the right and left sides of the central frame section; and track frames disposed on the sides of the distal ends of the legs, respectively, center frame, wherein each sections the legs is bifurcated into front and rear formed from cast steel (figures 4 & 6).

As concerns claim 2, JP '402 shows each leg has a two-part structure (figure 4).

As concerns claim 3, JP '402 shows a base section of the front leg section is securely welded to a base section of the rear leg section and wherein the base section

of each leg at which the front and rear leg sections are integrated with each other is welded to the central frame section (figure 11).

As concerns claim 4, JP '402 shows the entire circumference of the base section of each leg welded to an upper, lower, front and rear face plates (figure 6).

As concerns claim 5, JP '402 shows vertical walls formed from cast steel are provided for the front and rear leg sections so as to be integral with their base sections respectively (figure 11).

As concerns claim 6, JP '402 shows the vertical walls are located substantially immediately under a circular mount for supporting the swing bearing (figures 6 & 11).

As concerns claim 9, JP '402 shows the central frame section has right and left side supporting plates and the base sections of the legs are inserted into and securely welded to the central frame section so as to face the side supporting plates respectively (figures, 7, 9 & 23).

As concerns claim 10, JP '402 shows the side supporting plates are located substantially immediately under a circular mount for supporting the swing bearing (figures, 7, 9 & 23).

As concerns claim 12, JP '402 shows a vertical plate section is formed at the rear end of a base section of the front leg section and at the front end of a base section of the rear leg section and wherein the front and rear leg sections are substantially rectangular cross-section (figures, 7, 9 & 23).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable JP 09209402 over in view of Teria et al 3,920,081. JP '402 discloses a hydraulically power machine but does not show s concerns the vertical walls are respectively provided with a hole through which a hydraulic oil pipe is passed and a lip, or grommet, defining the hole is thickened. However, Teria shows a similar construction machine having vertical walls are respectively provided with a hole 14 through which a hydraulic oil pipe 8 is passed and a lip 4, or grommet, defining the hole is thickened. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify JP '402, as taught by Teria, to include means to allow hydraulic lines be connected through the frame in such a way that prevents damage to the lines during installation and use of the machine.

6. Claims 8 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable JP 09209402 over in view of Sasaki et al 6,637,111. JP '402 shows the upper and lower face plates of the central frame section are joined by welds and the surfaces the upper and lower face plates are flush with the upper and lower faces, respectively, of the leg, but does not specifically show a J groove weld. However, Sasaki shows a similar

Art Unit: 3671

construction machine where a J groove weld 55/54 is utilized to connect plates to form the base section (figures 12-13). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify JP '402, as taught by Sasaki, to include J groove weld to provide a strong connection between plates that are being welded together (col. 8, lines 63-67 & col. 9, lines 1-7).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A Beach whose telephone number is 571-272-6988. The examiner can normally be reached on Monday-Thursday, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 571-272-6998. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9306 for regular communications and 703.872.9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.4198.

Application/Control Number: 10/789,160

Page 6

Art Unit: 3671

Thomas A. Beach

April 18, 2005

**THOMAS A. BEACH**  
Patent Examiner  
Group 3600